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09/753,495	01/02/2001	Jeffrey H. Sherman	AVIS/I014C	2162

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EXAMINER

NGUYEN, TAM M

ART UNIT	PAPER NUMBER
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1764

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Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/753,495
Filing Date: January 02, 2001
Appellant(s): SHERMAN ET AL.

MAILED

MAY 17 2006

GROUP 1700

Robb D. Edmonds
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed March 1, 2006 appealing from the Office action
mailed April 25, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

4,431,524	NORMAN	2-1984
WO 97/00928	CHAVET ET AL.	1-1997

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

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Claims 4, 6, 11, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Norman (US 4,431,524).

The Norman reference discloses a process for treating a used oil. The process comprises contacting the oil with an aqueous solution of the basic salt of an alkali metal such as sodium hydroxide. The resulting mixture is then treated to separate water from the oil. This step necessarily produces an at least partially dehydrated used oil. The used oil is then mixed with a glycol such as ethylene glycol. The oil and glycol mixture is then passed to a separator to remove contaminants from the oil. See column 3, lines 15-48; column 8, lines 13-24; and column 10, line 54 through column 11, line 8.

Claims 7-9, 13, 16-22, 25-28, 31, 32, 34-36, and 39-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Norman (US 4,431,524) in view of WO 97/00928.

The Norman reference discloses a process for treating a used oil. The process comprises contacting the oil with an aqueous solution of the basic salt of an alkali metal. The resulting mixture is then treated to separate water from the oil. This step necessarily produces an at least partially dehydrated used oil. The used oil is then mixed with a glycol such as ethylene glycol. The oil and glycol mixture is then passed to a separator to remove contaminants from the oil. See column 3, lines 15-48; column 8, lines 13-24; and column 10, line 54 through column 11, line 8.

The Norman reference does not disclose the distillation step, does not disclose that the used oil is the various claimed used oils that contain light hydrocarbons, and does not disclose the amounts of base or glycol.

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The WO reference discloses a process for refining used oil. The process comprises contacting the oil with an alkaline reactant in the presence of a solvent such as ethylene glycol. Following the contacting, contaminants are removed from the oil by, among other steps, distillation. See the entire document and column 3, lines 7-55 and column 4, lines 1-47 of equivalent US Patent 6,072,065.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the process of Norman by distilling to remove contaminants at any appropriate set of conditions as suggested by the WO reference because distilling will remove contaminants from a mixture similar to the mixture present in the Norman process and therefore distilling would be expected to be an effective separation method in the process of Norman.

It also would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified process of Norman by treating the claimed used oils because such oils are chemically and physically similar to the oils disclosed by Norman and therefore would be expected to be effectively treated in the process of Norman.

It also would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified process of Norman by using any amounts of base and glycol including the claimed amounts because one of ordinary skill in the art would adjust such amounts to provide the disclosed effect of contaminant removal.

Claims 25-28, 31, 32, 34-36, 41, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 97/00928.

The WO 97/00928 reference discloses a process for refining used oil. The process comprises contacting the oil with an alkaline reactant in the presence of a solvent such as ethylene glycol. Following the contacting, contaminants are removed from the oil by, among other steps, distillation. See the entire document and column 3, lines 7-55 and column 4, lines 1-47 of equivalent US patent 6,072,065.

The WO reference does not disclose the distillation conditions and does not disclose the amounts of base or glycol.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the process of the WO 97/00928 reference by selecting distillation conditions that would effectively separate the contaminants from the oil including the specific conditions claimed because the range of distillation conditions disclosed in the WO reference indicates that such conditions are selected to obtain desired fractions. One of ordinary skill select appropriate conditions within the framework disclosed by the WO reference in order to produce desired products.

It also would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the process of the WO reference by using any amounts of base and glycol including the claimed amounts because one of ordinary skill in the art would adjust such amounts to provide the disclosed effect of contaminant removal.

(10) Response to Argument

The argument that the base is removed prior to the glycol addition in the Norman reference is not persuasive because nowhere in Norman is it indicated that all the base is

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removed in the water removal step. The examiner asserts that some base would remain in the oil after this water removal step.

The argument that there is no motivation to combine the Norman and WO references is not persuasive because including distilling in the process as suggested by the WO reference would result in the expectation of the removal of additional contaminants.

The argument that the oils of Norman and the WO reference are not similar is not persuasive because each reference discloses used oils from industrial applications. See Norman, column 1, lines 14-21 and Chavet, US equivalent 6,072,065, column 1, lines 8-11.

The argument that the WO reference does not suggest the distillation of oil, base, and glycol is not persuasive because the examiner asserts that at least traces of base must be present in the mixture that is distilled since it is unlikely that the washing step removes all of the base.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

TN

 5/10/06

Conferees:

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Glenn Caldarola


Glenn Caldarola
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